

**CITY OF ATLANTA
CIVIL SERVICE BOARD
FINDINGS OF FACT AND ORDER**

APPEAL NO. 2020-016AP

Atlanta Police Dept.

Effective Date: June 14, 2020

Hearing Date: April 22, 2021

APPELLANT:

Garrett Rolfe

ACTION:

Dismissal

HEARING OFFICERS:

Sterling P. Eaves, Chair

Plemon El-Amin

Robert D. Hawkins, DWB

APPEARANCES

City of Atlanta (“City”):

None

Counsel/Representative:

Allegra Lawrence-Hardy

Rod Ganske

Lisa Haldar

City of Atlanta’s Witnesses:

Devin Brosnan

Assistant Chief Todd Coyt

Sgt. William Dean

Appellant Garrett Rolfe

Appellant:

Garrett Rolfe

Counsel/Representative:

Lance LoRusso

Ken Davis

Appellant’s Witnesses:

Assistant Chief Todd Coyt

Sgt. William Dean, OPS

Appellant Garrett Rolfe

STATEMENT OF AUTHORITY

Under the authority and provisions of Chapter 114, Article VI, Division 3, Sections 114-546 through 556 of the Atlanta City Code ("Code"), a hearing conference in the above-referenced case was held virtually via Zoom Webinar, facilitated by the City, pursuant to Mayor Keisha Lance-Bottoms Executive Order regarding COVID-19, and before the above-named hearing officers of the Atlanta Civil Service Board (the "Board") on the date set forth above.

ATLANTA CIVIL SERVICE BOARD MISSION STATEMENT

As stated during the April 22, 2021 Zoom hearing, the Board's sole purpose is to examine the issues of adverse employment action(s) in accordance with the Atlanta City "Code". More specifically, the Board **is not** charged with determining if the Appellant's actions were criminal in nature nor will it make any reference thereto.

EXHIBITS

City of Atlanta: See List in the Official Records

Appellant: See List in the Official Records

CHARGES

Appellant was dismissed for violation of the Atlanta Police Department Work Rule:

4.2.50 – Maltreatment or Unnecessary Force

FINDINGS OF FACTS

1. At the time of his dismissal, the Appellant had worked for the APD for over seven years. Upon graduating from the Police Academy, he requested to be sent to the City's Zone 3.
2. Appellant was, at the effective date of his termination on June 14, 2020, a regular, non-probationary employee of the City of Atlanta Police Department.

3. In the late night of June 12, 2020, an APD officer responded to a dispatched complaint of a vehicle parked in a fast-food drive-thru lane. Appellant also responded to the call but as an assisting officer.
4. During the police-citizen encounter, the occupant left his parked vehicle and had some discussion with the officers. When the APD officers attempted to arrest the citizen, an altercation ensued. During the course of the altercation, the citizen began to flee on foot after having gained possession of the Conducted Electric Weapon (Taser) belonging to the first responding officer who had originally been dispatched to the scene.
5. As the Appellant gave chase, he deployed his City-issued Taser and the citizen in response, deployed the Taser now in his possession toward the Appellant. The Appellant then responded by firing three rounds from his City issued handgun, striking the citizen twice.
6. On June 13, 2020, acting under delegated authority of then APD Chief Erika Shields, Assistant Police Chief Todd Coyt signed a Notice of Proposed Adverse Action (NPAA) on behalf of the APD. The NPAA recommended “Dismissal” because the Appellant’s actions on the night of June 12, 2020 were deemed contrary to and in violation of APD. SOP.2010 Work Rules, Section 4.2.50 (Maltreatment or Unnecessary Force).
7. The NPAA stated that the Appellant had a right to respond to the APD Disciplinary Authority (Assistant Police Chief Todd Coyt) no later than June 13, 2020 at 4:45 p.m.
8. The Appellant’s Union Representative erroneously acknowledged receiving the NPAA on June 11, 2020 which was actually June 13, 2020.
9. The Notice of Final Adverse Action was signed by Assistant Chief Todd Coyt on June 13, 2020 charging the Appellant with violating Rule 4.2.50 as contained in APD.SOP.2010 Work Rules.
10. The Appellant’s Union Representative erroneously acknowledged receiving the NFAA on June 11, 2020 which was actually June 13, 2020.
11. The additional errors on the NPAA and the NFAA were in the section meant to disclose if the City’s action was an Emergency Action, where both “Yes” and “No” were marked.

DISCUSSION

As previously stated, the Panel’s sole mission is to determine if the City’s imposition of an adverse employment action complied with the Code. Section 114-530 (a) of the Code clearly outlines procedures and protocols for administering adverse employment actions: “An employee against whom an adverse action is to be taken shall be given a written notice of proposed adverse action, signed by the appointing authority or designee, at least ten working days prior to the effective date

of the proposed adverse action.” In this case, the effective date of the discipline was June 14, 2020, and the NPAA and the NFAA were issued to the Appellant’s Union Representative at virtually the same time on June 13, 2020. As such, the City’s actions were not compliant with the ten days prior notice period as required by the Code.

While the NPAA and the NFAA contained contrasting information, during the hearing counsel for the City stated and two APD Officers testified that the Appellant’s actions on the night of June 12, 2020, warranted emergency action and the documents should have unequivocally stated as much.

Section 114-530 (a) further states: “In an emergency situation, the adverse action may become effective immediately following the employee’s response.” Section 114-532 stipulates: “The appointing authority or designee shall give the employee against whom the emergency action is taken a notice of emergency action in writing, separate from the notice of proposed adverse action, not later than five working days after the effective date of the emergency action. The notice of emergency action shall include a statement of the emergency situation that caused the action to be taken. Should the action be an adverse action, the notice shall meet the requirements of Section 114-530(a)(2).” This section states: “The employee shall be given the opportunity to respond to the charge before the appointing authority or designee who has the authority to affirm or modify the proposed adverse action provided that a full evidentiary hearing prior to the adverse action is not required. The employee shall respond to the adverse action verbally or in writing within five days from the date of the receipt of the notice of the proposed adverse action.” During the hearing, the Panel was not provided with any documentary evidence to confirm that the City provided a notice of emergency action to the Appellant, separate from the notice of proposed adverse action, as mandated by the Code.

During his testimony, the Appellant expressed his desire to respond to the City’s proposed notice of adverse action, while contending that he was not given an opportunity to do so. Assistant Chief Coyt provided testimony acknowledging that when the NPAA and NFAA were presented to the Appellant’s Union Representative, no one in a supervisory capacity was present. In the Panel’s view, this negated the Appellant’s right to provide any response to an appointing authority or designee as required by the Code.

Sergeant William Dean, an APD veteran of twenty-five years and currently assigned to the Internal Affairs Advocacy Unit of Internal Affairs, testified that the Appellant’s dismissal seemed rushed and sufficient time was not provided for the Appellant to submit a response. Due to heightened community concerns surrounding the events of June 12, 2020, the Appellant was told not to be inside the City limits for his own safety. Sergeant Dean testified that different arrangements could have been made to present the NPAA and NFAA to the Appellant, while offering him an opportunity to respond to the City’s actions as permitted by the Code. He further stated that the hurried dismissal may have been due in part, to a press conference that was on the horizon. Finally, Sergeant Dean testified that during his tenure in Internal Affairs, he was unaware of any

employment termination of an APD officer for alleged firearms infractions without APD having first conducted the requisite investigations.

ORDER

Due to the City's failure to comply with several provisions of the Code and the information received during witnesses' testimony, the Board concludes the Appellant was not afforded his right to due process. Therefore, the Board **GRANTS** the Appeal of Garrett Rolfe and revokes his dismissal as an employee of the APD.

This the 5th day of May 2021.

Sterling P. Eaves

Sterling P. Eaves, Chairperson

Plemon El-Amin

Plemon El-Amin

Robert Hawkins

Robert D. Hawkins, DWB